THE HONORABLE BRIAN D. LYNCH 1 **CHAPTER 13 HEARING DATE: April 10, 2019** 2 **HEARING TIME: 1:30 P.M. LOCATION: Tacoma, Washington** 3 **RESPONSE DATE: April 3, 2019** 4 5 6 7 8 9 IN THE UNITED STATES BANKRUPTCY COURT FOR THE 10 WESTERN DISTRICT OF WASHINGTON AT TACOMA 11 12 In re: Case No.: 15-45816-BDL 13 DARONG HAP and TRUSTEE'S RESPONSE TO DEBTORS' SODAROTH MEL, MOTION TO MODIFY TO AMEND CHAPTER 14 13 PLAN Debtors. 15 16 **COMES NOW**, Michael G. Malaier, Chapter 13 Standing Trustee, and responds to 17 Debtors' Motion to Modify to Amend Chapter 13 Plan ("Motion")(ECF No. 30), as follows: 18 **BACKGROUND** 19 Debtors filed this Chapter 13 case on December 21, 2015. The applicable commitment 20 period is sixty months. The case is currently in the fortieth month. The bar date for filing non-21 governmental claims was April 20, 2016. Filed unsecured claims total \$45,237.44. The Trustee 22 estimates that under the proposed plan general unsecured creditors will receive approximately 23 \$0.00. 24 25

> Michael G. Malaier Chapter 13 Standing Trustee 2122 Commerce Street Tacoma, WA 98402 (253) 572-6600

RESPONSE

Trustee does not dispute that Debtors' plan needs to be modified to address the current plan payment delinquency of \$2,382.74 and to address completion issues; however, Debtors have added impermissible deductions for voluntary retirement contributions, increased almost every one of their monthly expenses, and also added a new \$700.00 per month expense for use of a vehicle and \$290.00 per month for life insurance.

Debtors' original Schedule I reflects no monthly voluntary retirement contributions for either Debtor. ECF No. 1 at 30. The supplemental Schedule I now includes a monthly voluntary contribution for Mr. Hap in the amount of \$379.08 per month and a monthly voluntary contribution for Ms. Mel in the amount of \$186.70 per month. ECF No. 28 at 2. To the extent Debtors were not claiming payroll deductions for retirement contributions at filing, they should not be permitted a monthly total contribution of \$565.78 now.

Debtors' food budget has increased from \$800.00 per month to \$1,200.00 per month without explanation. *Id.* at 4. Transportation has increased by \$100.00 per month, but the Debtors are still working at the same jobs. *Id.* Vehicle insurance has increased from \$230.00 per month to \$590.00 per month without explanation. *Id.* Without additional information these increases should be disallowed.

In addition to the above increases, Debtors have now added a new \$700.00 per month expense for use of a vehicle and \$290.00 per month for life insurance, without explanation. Debtors had a 2006 BMW 750 and 2001 Lexus 300 at the time of filing. ECF No. 1 at 11. Trustee has received no vehicle purchase requests and the BMW is still being paid for through Debtors' plan. No evidence has been provided to support the need for a \$700.00 payment to borrow someone else's vehicle. At that amount Debtors would be better off saving cash to purchase a vehicle outright if they need to replace one of their vehicles.

1	The new monthly expense for life insurance should be supported by evidence. Trustee requests
2	that a copy of the declarations page and evidence of the monthly payment be provided to the Trustee.
3	WHEREFORE, Trustee requests that the Motion be denied.
4	DATED this 2nd day of April, 2019.
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6	/s/ Mathew S. LaCroix
7	Mathew S. LaCroix, WSBA# 41847 for Michael G. Malaier, Chapter 13 Trustee
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